

Local Government Employee-Management Relations Board E-Newsletter

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Election Held for CCSD Support Staff

The EMRB recently conducted an election as to which employee organization was to represent 11,578 support employees who work for the Clark County School District. These support employees include bus drivers, secretaries, kitchen help, custodians, mechanics, and so forth.

Ballots were counted on Saturday, December 5th at the Cashman Center in Las Vegas. There were almost 100 volunteers in attendance that day to assist in the tallying of the votes.

Teamsters, Local 14 received 4,349 votes while the Education Support Employees Association, the incumbent union, received 970 votes. There were 50 votes that were either void, not counted or challenged for various reasons. So in the end Teamsters received almost 82% of the valid votes cast.

As you may recall this is the second election this year between the two unions. In February Teamsters Local 14 received 71% of the votes cast. However, in that election the "winner" was required to receive a majority of the votes that could have been cast – not actually cast – and neither entity met that threshold. For the election just held, the Board used the standard of a majority of the votes cast.

The certification of the election will be on the Board's agenda for January. Any party to the election had the right to file objections as to the conduct of the election within five days of counting the votes and ESEA filed one objection, challenging the standard used for determining which employee organization could be recognized, namely using a majority of the votes cast standard instead of staying with the prior standard.

Did you know

that SB 241 made a number of changes to collective bargaining for schools? For example, Section 1.6 of that law requires that if an employee organization representing teachers or educational support personnel desires to negotiate concerning any matter which is subject to negotiation pursuant to NRS 288, then it shall give notice of its intent to the local government on or before January 1st. This date is earlier than the prior deadline!

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On the Horizon

The next meeting of the Board will be held Monday, January 11th through Thursday, January 14th in Las Vegas. The agenda for this meeting will be issued on January 4th. At that time the Board will hear two cases. The first is 2015-003, John Ducas v. Las Vegas Metropolitan Police Department. Ducas claims that he was the victim of discrimination at the hands of his superior and that the discrimination was because of his race, white, and his political views, conservative, when his superior was Hispanic and liberal and many members of his unit were also liberal. LVMPD denies the allegations.

The second case for January is A1-046128, City of Las Vegas v. Las Vegas Peace Officers Association. This hearing will determine the scope of a proposed new bargaining unit for lieutenants. The case had previously been taken off calendar when it appeared to have tentatively settled, but is now back on calendar.

Also in January, the Board is scheduled to certify the results of the recent election between the Education Support Employees Association and Teamsters, Local 14.

The Board will next meet on Tuesday, February 9th through Thursday, February 11th in Las Vegas. At that time the Board is scheduled to hear one case, which is expected to last all three days: 2015-001, Bramby Tollen v. Clark County Association of School Administrators and Professional-Technical Employees. Ms. Tollen alleges that her union breached its duty of fair representation when she was threatened with discipline by the Clark County School District over allegations of her working for another employer in the State of Washington while on medical leave at CCSD. Her union denies the allegations and alleges that she voluntarily resigned her employment with CCSD and therefore she did not need representation at a pending disciplinary hearing.

Recent Decisions

Please note that summaries of recent decisions are provided for informational purposes only and are not intended to substitute for the opinions of the Board. These summaries should not be cited to or regarded as legal authority. The EMRB will provide copies of the decisions upon request. They also may be found on our website.

Item 811; Case A1-046120; IAFF, Local 1908 v. Clark County. In December 2013 the Clark County Fire Department created a second EMS Coordinator position within the fire bargaining unit and then demoted Troy Tuke, an Assistant Fire Chief, into that position. Thereupon IAFF, Local 1908, which represents the fire bargaining unit, filed an unfair labor practice, claiming that NRS 288 forbids the County from placing non-bargaining unit employees into a bargaining unit position without negotiating the matter. The County claimed it had the right to do so under NRS 245, which allows counties to make 3% of its employees exempt from the county's merit system.

The Board held that pursuant to NRS 288.150(3) the County had a management right to decide whom to hire or appoint to any position, including one within the bargaining unit, and that promotional and appointment requirements are not a mandatory subject of bargaining. Therefore, the County was not obligated to negotiate the appointment of Tuke to the position of EMS Coordinator. The Board further stated that it lacked the authority to decide whether the County's merit system required a competitive appointment process in this case as NRS 245 is outside its jurisdiction.

However, this did not end the case. The Board heard evidence that Tuke was treated differently than the other EMS Coordinator, specifically in regards to seniority, longevity and the applicability of the grievance process. The Board noted that these do concern mandatory subjects of bargaining under NRS 288.150(2). The County claimed that because Tuke was an exempt employee under NRS 245, that this trumped its obligations to treat Tuke as though he was subject to all the provisions in the CBA, even though he was in a bargaining unit covered by a CBA. The Board disagreed, stating that once placed into the bargaining unit, Tuke was to be treated as all other employees in that bargaining unit. Therefore, the Board ordered Clark County to immediately cease and refrain from treating Tuke in a manner that conflicts with the applicable CBA between IAFF, Local 108 and the County.

In the Queue...

Once initial pleadings, including pre-hearing statements, have been filed with the EMRB and after any motions to dismiss or defer have been decided, then a case typically goes into a queue, waiting for the Board to decide whether to grant a hearing in the case or dismiss the complaint. Below is a description of the current queue:

The Board has scheduled two cases for January. The first is 2015-003, John Ducas v. Las Vegas Metropolitan Police Department while the second case is A1-046128, City of Las Vegas v. Las Vegas Peace Officers Association.

2015-001, Bramby Tollen v. Clark County Association of School Administrators and Professional-Technical Employees is scheduled for February 2016.

There are currently only two cases in the queue awaiting a hearing date:

2015-009, Eric Rockwell and North Las Vegas Police Officers Association v. City of North Las Vegas

2015-025, IAFF, Local 1285 v. City of Las Vegas

Open Forum to Be Held January 21st

The EMRB will be holding its third annual Open Forum on January 21st at 2:00 p.m. at the EMRB office in Las Vegas. The meeting will be video conferenced to the Department of Business and Industry main office in Carson City. At this meeting you will have the opportunity to offer your ideas on improving the agency. Main topics to be discussed will be possible statutory changes, possible regulatory changes, ideas on allowing the e-service of documents as a supplement to our e-filing system, the agency budget and finances, and enhancements to our website and e-newsletter. Please plan on attending this important annual meeting. However, if you cannot attend you are more than welcome to give us your ideas in writing by mailing us or e-mailing us at the addresses below.

Annual Filings Update

The deadline has passed for every local government and employee organization to file their annual report with the EMRB. If your entity has not yet filed please contact us at your earliest convenience and we will help guide you through the process, which is actually fairly simple. Also, if you have not filed, please expect to be contacted by us. We will be posting updates to all the collective bargaining agreements, as well as a directory of local governments and employee organizations, as soon as possible.

If you have any questions on the annual filing process please do not hesitate to contact us at the phone number or e-mail address below.

"About the EMRB"

The Employee-Management Relations Board (EMRB), a Division of the Department of Business and Industry, fosters the collective bargaining process between local governments and their employee organizations (i.e., unions), provides support in the process, and resolves disputes between local governments, employee organizations, and individual employees as they arise.